Senate Bill No. 796

CHAPTER 201

An act to add Section 4139 to the Welfare and Institutions Code, relating to state hospitals.

[Approved by Governor August 31, 2011. Filed with
Secretary of State August 31, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 796, Blakeslee. State hospitals: prohibited items: misdemeanor penalty.

Existing law provides for state mental hospitals for the treatment of mentally disordered persons. Existing law places these hospitals under the jurisdiction of the State Department of Mental Health, and authorizes the department to adopt uniform rules and regulations regarding the conduct and management of these facilities, including prohibiting patients from possessing certain items.

This bill would make the possession with the intent to deliver, or delivery, to a patient in a state hospital specified items, if they have been prohibited for possession by a patient either by statute or by regulation, a misdemeanor, punishable by a fine not to exceed $1,000 for each item. The bill would also require the confiscation from a visitor of an item prohibited for possession by a patient if discovered upon being searched or subjected to a metal detector and would require, unless the item is held as evidence, the return of the item the same day. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 4139 is added to the Welfare and Institutions Code, to read:

4139. (a) Except as otherwise authorized by law, or when authorized by the director of the state hospital, and except as provided in subdivision (b), a person who possesses with the intent to deliver, or delivers, to a patient in a state hospital listed in Section 4100 any item listed in paragraphs (1) to (3), inclusive, that has been prohibited for possession by a patient either by statute or by regulation is guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000) for each item.

(1) A cellular telephone or other wireless communication device, or any component thereof, including, but not limited to, a subscriber identity card (SIM card) or memory storage device.

(2) Tobacco products, if the state hospital has a ban on tobacco products.

(3) Money, in excess of the limitations and restrictions adopted by the state hospital.

(b) If a person visiting a patient in a state hospital listed in Section 4100, upon being searched or subjected to a metal detector, is found to be in possession of an item prohibited for patient possession pursuant to subdivision (a), the item shall be subject to confiscation but shall be returned on the same day the person visits the patient, unless the item is held as evidence in a case where the person is cited for a violation of subdivision (a). If, upon investigation, it is determined that no prosecution will take place, the item shall be returned to the owner at the owner's expense. Notice of this provision shall be posted in all areas where visitors are searched prior to visitation with a patient and outside the facility in a location easily visible to visitors so that they can leave prohibited items in their cars before entering the visitor area.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O